IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 1245/2006
(Banwari alias Bhanwara Ram V/s State of Rajasthan & Anr.)

Date of Order : 12/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. H.S.Shrimali, for the petitioner.
Mr. Ashok Upadhyay, P.P.
Mr. H.S.Sidhu for the respondent No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner seeks quashing of FIR No. 121/06 P.S. Kolayat, district Bikaner for the offences under Sections 420, 467, 468, 471 and 120B IPC.

I have heard learned counsel for the petitioner, public prosecutor for the State and the counsel appearing for respondent No.2.

It is contended by learned counsel for the petitioner that complainant respondent No.2 Karni Singh lodged an FIR being FIR No.245/06 dated 11.8.2006 at Police Station, Sadar,

Bikaner against Banwarilal @ Bhanwara Ram, Gaursingh, Andaram and Laluram and for the very cause, the respondent No.2 complainant has lodged another FIR being FIR No. 121 dated 17.8.2006 at Police Station, Kolayat, Bikaner for the offences noticed above against Banwari @ Bhanwara, Smt. Bidami, Cheharam, Smt. Chawli, Chetarla and Andaram and therefore, the FIR No.121/06 dated 17.8.2006 is second FIR on the same facts and therefore, the second FIR is not maintainable and deserves to be quashed.

Learned public prosecutor and the counsel appearing for the respondent No.2 complainant submit that there were two distinct occurrences at two different places and therefore, the FIR No. 121/06 cannot be said to be one and same to that of FIR No. 245/06. There are different accused in the matter though some of the accused are common in both the FIRs, but the FIR No.121 and FIR No. 245 wherein the place of occurrence and accused are different.

In first FIR i.e. 245/06 dated 11.8.2006 the allegations precisely are that one Gaursingh died issue-less as he was unmarried and complainant respondent No.2 Karni Singh is his legal heir. The agriculture land of Gaursingh bearing Khasra No.128 measuring 6.30 hectares and Khasra No.129 measuring 6.33 hectares was to be recorded in the name of the respondent No.2 as the respondent NO.2 is the sole heir after the death of

Gaursingh. It is stated that Gaursingh expired on 6.7.1988 and during his life time he did not transfer his land in favour of anyone. However, after his death, a forged power of attorney has been executed alleged to be that of Gaursingh, whereas Gaursingh has never executed any power of attorney in favour of accused petitioner and that power of attorney has been used as genuine and on the basis of said power of Attorney, the land of Gaursingh was got transferred and thereafter Kisan Credit card from State Bank of Bikaner and Jaipur Branch Bithnok was sought to be obtained. On these allegations, the FIR No.245 has been registered and matter is under investigation.

The FIR No. 121 dated 17.8.2006 which is under challenge by this petition was also lodged by the respondent No.2 but with certain additions of accused. Apart from accused No.1 Banwari and Andaram, there are as many as four other accused. On the basis of the forged power of attorney, a sale deed was executed in favour of the attesting witnesses of the power of attorney and the petitioner's elder brother's wife (Bhabhi) and family members and thus the petitioner committed an offence of cheating by forging of documents using it as genuine etc. and entering into a criminal conspiracy.

On careful perusal of the FIRs, it cannot be said that the FIR No. 121 and 245 of 2006 are one and the same. In the circumstances, therefore, both the FIRs have different cause,

date of occurrence and some of the accused are different and, therefore, maintainable and police is empowered to investigate both the FIRs independent of each other.

No case for quashing the FIR is made out. The petition is therefore, dismissed.

(H.R.PANWAR),J.

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